

AMENDED IN SENATE MAY 27, 2010

AMENDED IN ASSEMBLY MAY 10, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 2787**

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**Introduced by Assembly Member Monning**  
*(Principal coauthor: Senator Alquist)*

March 9, 2010

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~~An act to amend Section 14132.27 of the Welfare and Institutions Code, relating to Medi-Cal. An act relating to health care coverage, and making an appropriation therefor.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 2787, as amended, Monning. ~~Medi-Cal: Disease Management Waiver. Office of the California Health Ombudsman.~~

*Existing law, the federal Patient Protection and Affordable Care Act, requires the United States Secretary of Health and Human Services to award grants to states to enable them to establish, expand, or provide support for offices of health insurance consumer assistance or health insurance ombudsman programs and imposes specified eligibility requirements on states in order to receive those grants.*

*This bill would establish the Office of the California Health Ombudsman in state government, to be governed by a chief executive officer known as the California Health Ombudsman who would be appointed in an unspecified manner. The bill would require the ombudsman to, among other things, educate consumers on their rights and responsibilities with respect to health care coverage, assist consumers with enrollment in health care coverage, and resolve problems with obtaining specified premium tax credits. The bill would*

*require the ombudsman to apply to the United States Secretary of Health and Human Services for a grant to implement these requirements and would create the California Health Ombudsman Trust Fund as a continuously appropriated fund in the State Treasury for purposes of the act.*

~~Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. Existing law requires the department to apply for a waiver of federal law to test the efficacy of providing a disease management benefit, as described, to specified beneficiaries under the Medi-Cal program. Existing law requires the department to submit an evaluation of the effectiveness of the waiver to the appropriate policy and fiscal committees of the Legislature on or before January 1, 2008.~~

~~This bill would, instead, require the department to submit this evaluation on or before July 1, 2011, and would also require the department to include recommendations for modifications that should be made prior to a statewide implementation of the waiver.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. (a) *There is hereby created in state government*
- 2     *an independent office of health care coverage consumer assistance*
- 3     *called the Office of the California Health Ombudsman. The office*
- 4     *shall operate in compliance with the criteria established by the*
- 5     *United States Secretary of Health and Human Services and shall*
- 6     *be under the direction of a chief executive officer who shall be*
- 7     *known as the California Health Ombudsman. The ombudsman*
- 8     *shall be appointed by \_\_\_\_.*
- 9     (b) *The ombudsman shall, in coordination with the Department*
- 10    *of Managed Health Care, the Department of Insurance, and*
- 11    *consumer assistance organizations, receive and respond to*
- 12    *inquiries and complaints concerning health care coverage with*
- 13    *respect to requirements under federal and state law.*
- 14    (c) *The ombudsman shall do all of the following with respect*
- 15    *to all health care coverage available in California, including*
- 16    *coverage available through public programs and coverage*
- 17    *available through health care service plans under Chapter 2.2*

1 *(commencing with Section 1340) of Division 2 of the Health and*  
2 *Safety Code and health insurers under Part 2 (commencing with*  
3 *Section 10110) of Division 2 of the Insurance Code:*

4 *(1) Assist with the filing of complaints and appeals, including*  
5 *appeals with the internal appeal or grievance process of the health*  
6 *care service plan, health insurer, or group health plan involved,*  
7 *and providing information about any external appeal process.*

8 *(2) Collect, track, and quantify problems and inquiries*  
9 *encountered by consumers with respect to health care coverage.*

10 *(3) Educate consumers on their rights and responsibilities with*  
11 *respect to health care coverage.*

12 *(4) Assist consumers with enrollment in health care coverage*  
13 *by providing information, referral, and assistance.*

14 *(5) Resolve problems with obtaining premium tax credits under*  
15 *Section 36B of the Internal Revenue Code.*

16 *(d) In order to carry out the duties described in subdivision (c),*  
17 *the ombudsman shall utilize a network of local community-based*  
18 *non-profit consumer assistance programs with experience in the*  
19 *following areas:*

20 *(1) Assisting consumers in navigating the local health care*  
21 *system.*

22 *(2) Enrolling consumers in health care coverage.*

23 *(3) Resolving consumer problems associated with health care*  
24 *access.*

25 *(4) Serving consumers with special needs, including, but not*  
26 *limited to, consumers with limited English language proficiency,*  
27 *low-income consumers, consumers with disabilities, and consumers*  
28 *with multiple health conditions.*

29 *(5) Collecting and reporting data on the types of health care*  
30 *coverage problems consumers face.*

31 *(e) The ombudsman shall collect and report data to the United*  
32 *States Secretary of Health and Human Services on the types of*  
33 *problems and inquiries encountered by consumers.*

34 *(f) The ombudsman shall apply to the United States Secretary*  
35 *of Health and Human Services for a grant under Section 2793 of*  
36 *the federal Public Health Service Act, as added by Section 1002*  
37 *of the federal Patient Protection and Affordable Care Act (Public*  
38 *Law 111-148), to implement the requirements of this section.*

1 (g) For purposes of this section, “group health plan” has the  
2 same meaning set forth in Section 2791 of the federal Public Health  
3 Service Act (42 U.S.C. 300gg-91).

4 SEC. 2. (a) The California Health Ombudsman Trust Fund is  
5 hereby created in the State Treasury for the purpose of this act.  
6 Notwithstanding Section 13340 of the Government Code, all  
7 moneys in the fund shall be continuously appropriated without  
8 regard to fiscal year for the purposes of this act. Any moneys in  
9 the fund that are unexpended or unencumbered at the end of the  
10 fiscal year may be carried forward to the next succeeding fiscal  
11 year.

12 (b) The ombudsman shall establish and maintain a prudent  
13 reserve in the fund.

14 (c) Notwithstanding Section 16305.7 of the Government Code,  
15 all interest earned on moneys that have been deposited in the fund  
16 shall be retained in the fund and used for purposes consistent with  
17 this act.

18 SECTION 1. ~~Section 14132.27 of the Welfare and Institutions~~  
19 ~~Code is amended to read:~~

20 ~~14132.27. (a) (1) The department shall apply for a waiver of~~  
21 ~~federal law pursuant to Section 1396n of Title 42 of the United~~  
22 ~~States Code to test the efficacy of providing a disease management~~  
23 ~~benefit to beneficiaries under the Medi-Cal program. A disease~~  
24 ~~management benefit shall include, but not be limited to, the use~~  
25 ~~of evidence-based practice guidelines, supporting adherence to~~  
26 ~~care plans, and providing patient education, monitoring, and~~  
27 ~~healthy lifestyle changes.~~

28 ~~(2) The waiver developed pursuant to this section shall be known~~  
29 ~~as the Disease Management Waiver. The department shall submit~~  
30 ~~any necessary waiver applications or modifications to the Medicaid~~  
31 ~~State Plan to the federal Centers for Medicare and Medicaid~~  
32 ~~Services to implement the Disease Management Waiver, and shall~~  
33 ~~implement the waiver only to the extent federal financial~~  
34 ~~participation is available.~~

35 ~~(b) The Disease Management Waiver shall be designed to~~  
36 ~~provide eligible individuals with a range of services that enable~~  
37 ~~them to remain in the least restrictive and most homelike~~  
38 ~~environment while receiving the medical care necessary to protect~~  
39 ~~their health and well-being. Services provided pursuant to this~~  
40 ~~waiver program shall include only those not otherwise available~~

1 under the state plan, and may include, but are not limited to,  
2 medication management, coordination with a primary care  
3 provider, use of evidence-based practice guidelines, supporting  
4 adherence to a plan of care, patient education, communication and  
5 collaboration among providers, and process and outcome measures.  
6 Coverage for those services shall be limited by the terms,  
7 conditions, and duration of the federal waiver.

8 (e) Eligibility for the Disease Management Waiver shall be  
9 limited to those persons who are eligible for the Medi-Cal program  
10 as aged, blind, and disabled persons or those persons over 21 years  
11 of age who are not enrolled in a Medi-Cal managed care plan, or  
12 eligible for the federal Medicare program, and who are determined  
13 by the department to be at risk of, or diagnosed with, select chronic  
14 diseases, including, but not limited to, advanced atherosclerotic  
15 disease syndromes, congestive heart failure, and diabetes.  
16 Eligibility shall be based on the individual's medical diagnosis  
17 and prognosis, and other criteria, as specified in the waiver.

18 (d) The Disease Management Waiver shall test the effectiveness  
19 of providing a Medi-Cal disease management benefit. The  
20 department shall evaluate the effectiveness of the Disease  
21 Management Waiver.

22 (1) The evaluation shall include, but not be limited to, participant  
23 satisfaction, health and safety, the quality of life of the participant  
24 receiving the disease management benefit, and demonstration of  
25 the cost neutrality of the Disease Management Waiver as specified  
26 in federal guidelines.

27 (2) The evaluation shall estimate the projected savings, if any,  
28 in the budgets of state and local governments if the Disease  
29 Management Waiver was expanded statewide.

30 (3) (A) The evaluation shall be submitted to the appropriate  
31 policy and fiscal committees of the Legislature on or before July  
32 1, 2011, and shall include recommendations for modifications that  
33 should be made prior to a statewide implementation of the Disease  
34 Management Waiver.

35 (B) The requirement for submitting the evaluation imposed  
36 under this paragraph is inoperative on July 1, 2015, pursuant to  
37 Section 10231.5 of the Government Code.

38 (C) The evaluation to be submitted pursuant to this paragraph  
39 shall be submitted in compliance with Section 9795 of the  
40 Government Code.

1     ~~(e) The department shall limit the number of participants in the~~  
2     ~~Disease Management Waiver during the initial three years of its~~  
3     ~~operation to a number that will be statistically significant for~~  
4     ~~purposes of the waiver evaluation and that meets any requirements~~  
5     ~~of the federal government, including a request to waive statewide~~  
6     ~~implementation requirements for the waiver during the initial years~~  
7     ~~of evaluation.~~

8     ~~(f) In undertaking this Disease Management Waiver, the director~~  
9     ~~may enter into contracts for the purpose of directly providing~~  
10    ~~Disease Management Waiver services.~~

11    ~~(g) The department shall seek all federal waivers necessary to~~  
12    ~~allow for federal financial participation under this section.~~

13    ~~(h) The Disease Management Waiver shall be developed and~~  
14    ~~implemented only to the extent that funds are appropriated or~~  
15    ~~otherwise available for that purpose.~~

16    ~~(i) The department shall not implement this section if any of~~  
17    ~~the following apply:~~

18    ~~(1) The department's application for federal funds under the~~  
19    ~~Disease Management Waiver is not accepted.~~

20    ~~(2) Federal funding for the waiver ceases to be available.~~